UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

In Re:)	
AREDIA® AND ZOMETA® PRODUCTS LIABILITY LITIGATION)	
(MDL No. 1760))	No. 3:06-MD-1760 Judge Campbell/Brown
This Document Relates to: (ALL CASES))))	

ORDER

The Magistrate Judge entered an order on November 1, 2011 instructing the parties to advise the court not later than November 15, 2013 of any Group 2 cases that are not yet ready for a suggestion of remand. (MDL Doc. 7094) Defendant Novartis Pharmaceuticals Corporation (NPC) responded to the Magistrate Judge's order on November 15, 2013, and identified the following three cases as not yet ready for suggestion of remand: 3:07-CV-00957 (*Nygren*); 3:07-CV-01043 (*Clark*); 3:07-CV-1171 (*Liebtag*). (MDL Doc. 7137; Related Cases 29, 34, 28) Counsel representing *Clark* and *Liebtag* argued in response that a suggestion of remand should be entered in those two cases. (MDL Doc. 7142; Related Cases, 35, 29) None of the other parties responded to the Magistrate Judge's November 1, 2013 order.

The Magistrate Judge has reviewed each of the cases in Group 2. As for the three cases mentioned above, a review of the record reveals that dispositive motions are pending in both *Nygren* and *Clark*. (MDL Docs. 6764, 7047; Related Cases 23, 33) Therefore, *Nygren* and *Clark* are not ripe for suggestion of remand. As for *Liebtag*, NPC argues that Mr. Liebtag, who apparently resides in Israel much of the year, has not been made available for deposition even though he allegedly has been back in this country since September 1, 2013. (MDL Doc. 7094, p. 1; Related Case 28) Counsel representing Mr. Liebtag does not dispute NPC's claim that Mr. Leibtag has been back in the country since September 1, 2013, or that he has not made Mr. Liebtag available to be deposed.

(MDL Doc. 7142, p. 1; Related Case 29) Counsel provides no reason, good or otherwise, why Mr.

Liebtag cannot be deposed in accordance with the court's prior orders. Rather, counsel is of the view

that Mr. Liebtag should be deposed following remand.

Mr. Liebtag's case will not be recommended for suggestion of remanded until after fact

discovery has concluded. Counsel SHALL coordinate with NPC to arrange a date for Mr. Liebtag

to be deposed. Counsel is forewarned that failure to comply with this order with respect to Mr.

Liebtag's deposition may result in a recommendation that this case be dismissed for failure to

prosecute and/or for failure to comply with the orders of the court, and/or appropriate sanctions

imposed.

In addition to the three cases above, the Magistrate Judge has determined that the following

additional eight Group 2 cases still have actions pending: 3:07-CV-00239 (Begley); 3:07-CV-00395

(Grant); 3:07-CV-00470 (Feller); 3:07-CV-00536 (McBride); 3:07-CV-00538 (Sanderson); 3:07-

CV-01072 (Ross); 3:07-CV-01182 (Caruthers, et al.); 3:08-CV-00020 (Nerzig, et al.); 3:08-CV-

00907 (Wood). Therefore, none of these eight cases are ripe for suggestion of remand at this time.

In addition to the cases discussed above, six cases have been moved from Group 2 to Group

3 by agreement of the parties, and thirteen cases have been dismissed either for failure to prosecute,

or by stipulation of the parties. Therefore, of the original 125 cases in Group 2, the ninety-five cases

listed at Exhibit 1 are RECOMMENDED for suggestion of remand.

It is so ORDERED.

ENTERED this 19th day of November, 2013.

/s/Joe B. Brown

Joe B. Brown

United States Magistrate Judge

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